

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM R. ENNIS,

Plaintiff,

Case No. 1:09-cv-299

v.

Honorable Paul L. Maloney

MARY BERGHUIS et al.,

Defendants.

ORDER DENYING RECONSIDERATION

This is a civil rights action brought by a state prisoner pursuant to 42 U.S.C. § 1983. On April 2, 2009, the Court granted Plaintiff's motion to proceed *in forma pauperis* (docket #4). In accordance with 28 U.S.C. § 1915(a), the Court directed Plaintiff to pay \$41.67 as the balance of his initial partial filing fee. The order also provided that, after Plaintiff had paid the initial partial filing fee, he remained liable to pay the remaining \$303.33 of his filing fee in monthly installments of twenty percent of his average monthly deposits in any month his prison account balance exceeded \$10.00. Plaintiff paid his initial partial filing fee on April 21, 2009. Thereafter the Court reviewed the action under 28 U.S.C. §§ 1915(e)(2), 1915A, and 42 U.S.C. § 1997e(c), and issued an opinion and judgment (docket ##7, 8) dismissing the action for failure to state a claim. The matter now is before the Court on Plaintiff's motion for reconsideration (docket #9).

In his somewhat confusing motion for reconsideration and affidavit in support, Plaintiff asks the Court to modify its June 5, 2009 opinion, to the extent it requires him to pay his appellate filing fee in one lump sum. In its opinion, the Court did not require Plaintiff to pay his appellate filing fee in one lump sum. Instead, the Court advised Plaintiff that, if he chose to file an

appeal (which he has not filed as of this date), the Court would assess his \$455.00 appellate filing fee under 28 U.S.C. § 1915(b)(1), in the same manner it assessed his district court filing fee. The Court also advised Plaintiff that, if he was found to be barred under the “three-strikes rule” of § 1915(g), he would be ordered to pay the filing fee in one lump sum. Because Plaintiff did not file an appeal and did not move to proceed on appeal *in forma pauperis*, the Court has not determined whether Plaintiff has three strikes under 28 U.S.C. § 1915(g) or whether he is entitled to proceed *in forma pauperis* and the amount of his initial partial filing fee.¹

Because no error exists in the Court’s June 5, 2009 opinion and judgment,

IT IS ORDERED that Plaintiff’s motion for reconsideration (docket #9) is
DENIED.

Dated: July 30, 2009

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge

¹ The Court notes that any appeal filed at this juncture would be untimely under FED. R. APP. P. 4(a).